

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY

TRANSCRIPT OF PROCEEDINGS

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:  
JAMES RIVER EQUIPMENT, : CIVIL ACTION  
Virginia, LLC, : NO. 5:13-cv-28160  
:  
vs. :  
:  
JUSTICE ENERGY COMPANY, : September 16, 2014  
INC., a West Virginia :  
Corporation, :  
:  
Defendant. :  
:  
-----X

STATUS CONFERENCE

BEFORE THE HONORABLE R. CLARKE VANDERVORT  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiff: MR. JASON S. HAMMOND  
Bailey & Wyant  
P.O. Box 3710  
Charleston, WV 25337-3710  
  
For the Defendant: No Appearance

Court Reporter: Lisa A. Cook, RPR-RMR-CRR-FCRR

Proceedings recorded by Courtflow; transcript produced by  
computer.

P R O C E E D I N G S

THE COURT: This is the matter of *James River Equipment, Virginia, LLC vs. Justice Energy Company, Inc.*, Civil Action Number 5:13-28160. And the Court notes in attendance James River Equipment's attorney, Mr. Jason Hammond of Bailey & Wyant.

The purpose of this proceeding, I suppose, is to have a status respecting matters that pertain to the collection of a judgment that was taken by default against Justice Energy Company.

And please have a seat, Jason. Yeah, thank you.

And we have notified in several different ways, and I think Jason has also notified independently in several different ways, the representative of Justice Energy Company respecting these proceedings. And we have at this point in time, which is the time when the hearing was set to occur, no representative of Justice Energy Company present.

So I suppose it's appropriate to speak about -- I'm in a double role, Jason, sort of a hybridized role of appointed Commissioner in the matter under West Virginia statute and also United States Magistrate Judge. So I'm at your disposal, sir.

MR. HAMMOND: I appreciate that. And you're right. As soon as your last order was issued, I personally sent a letter to Mr. Semenov with a copy of this.

1           In the meantime, I think it was on August 27th, I sent  
2 a request for production in aid of execution hoping that  
3 would bring something to the top here.

4           I've not heard anything at all from Justice Energy on  
5 this. My initial thoughts are at this point they are in  
6 contempt of your order by failing to contact me on this.

7           Here in two weeks they're going to be late on request  
8 for production of documents which I intend on filing a  
9 motion to compel on. And we may be at the point where we  
10 need to set another status conference and I issue a subpoena  
11 to Mr. Semenov --

12           THE COURT: Uh-huh.

13           MR. HAMMOND: -- for him to personally appear at  
14 this, or at least appear via counsel.

15           THE COURT: I was needling around on-line and I  
16 saw a, a reference to an MSHA violation and litigation that  
17 pertained to the mine that Justice Energy Company, Inc.,  
18 was -- had some dealings about. And there was a man whose  
19 last name begins with a B, Bartlett or Barrett or something  
20 like that. And I wondered -- who, who represented, I  
21 believe, Justice Energy and the mine at that time.

22           MR. HAMMOND: I can tell you I have -- both myself  
23 and my firm have a handful of other litigation against  
24 Mechel Bluestone entities and they're represented in every  
25 other case.

1 THE COURT: Uh-huh.

2 MR. HAMMOND: And I've mentioned this case to  
3 those attorneys in the other cases.

4 THE COURT: Is that right?

5 MR. HAMMOND: They know nothing about it and  
6 haven't had any discussions.

7 THE COURT: Uh-huh.

8 MR. HAMMOND: But they are disputing debt in other  
9 cases.

10 THE COURT: And represented in other cases?

11 MR. HAMMOND: Represented in other cases.

12 THE COURT: Well, I wonder -- in those cases, of  
13 course, then you're going to come upon a great deal of  
14 information about this Justice Energy Company.

15 MR. HAMMOND: At this point within this case I  
16 want all their asset information, all their liability  
17 information.

18 THE COURT: Uh-huh. And you're not getting that  
19 in the other matters?

20 MR. HAMMOND: No. And to some extent I don't know  
21 as if I'd be completely entitled to all of that information  
22 yet given it would just be discovery on a breach of contract  
23 case.

24 THE COURT: Oh, I see. Those are in earlier  
25 stages of, of the dispute --

1 MR. HAMMOND: Correct.

2 THE COURT: -- than this particular case?

3 MR. HAMMOND: This is the most advanced of the  
4 cases.

5 THE COURT: Okay, okay. So what is your plan?

6 MR. HAMMOND: The responses to the request for  
7 production are due -- I think it's September 27th or 28th.  
8 At that point, I was going to send another certified letter  
9 to Mr. Semenov giving him five days to respond. And then I  
10 was going to file a motion to compel in front of you again  
11 and have them served with that.

12 And then if we're going to set another status hearing,  
13 I'm going to issue a subpoena to Mr. Semenov to try to get  
14 his attendance or get his attention. I recently located his  
15 personal address here in Beckley. So I'm just going to have  
16 him served both at the office as well as at his residence.

17 THE COURT: And he still remains the agent for  
18 purposes of service; is that correct?

19 MR. HAMMOND: According to the Secretary of  
20 State's website, correct.

21 THE COURT: Okay. Well, I view my role as the  
22 Commissioner appointed by the District Court in this matter  
23 as being a good bit more proactive about these matters.

24 Let me ask you how you are on perfection of your liens.

25 MR. HAMMOND: At this point, I had abstracts of

1 judgment issued. I have since recorded those in three or  
2 four counties that I know Bluestone entities operate in.

3 THE COURT: Uh-huh.

4 MR. HAMMOND: I believe Raleigh, Wyoming, and  
5 McDowell.

6 THE COURT: Okay.

7 MR. HAMMOND: So that's where we're at with those.  
8 I issued a generic writ of execution, U.S. Marshal's Office.  
9 Of course it was returned --

10 THE COURT: Uh-huh.

11 MR. HAMMOND: -- with no assets at this point  
12 because they didn't have any specific assets to, --

13 THE COURT: Yeah, nothing specific.

14 MR. HAMMOND: -- to collect at this point.

15 THE COURT: Uh-huh.

16 MR. HAMMOND: So that's where we are. They're  
17 completely perfected liens.

18 THE COURT: Okay, good, because a judgment,  
19 abstract of judgment covers real estate, as you know, and  
20 the execution will cover personalty, including cash.

21 Are you -- I, I would suggest to you that -- and let me  
22 tell you I used to love to collect money as a practicing  
23 lawyer. It was the most fun I ever had. I mean, it was  
24 just a, a -- it was cowboy time, you know. And how I came  
25 upon my -- I've come upon information just out riding my

1 Harley, you know, and seen people by mistake.

2 But I would suggest that you might want to think about  
3 just issuing a blanket set of suggestions and having them  
4 served upon all the banks in the Raleigh County area.

5 MR. HAMMOND: Okay.

6 THE COURT: I would also suggest that you think  
7 about, to the extent that you, you feel you can under, under  
8 Rule 11, I suppose, would be what would guide you, pierce  
9 the corporate veil proceeding.

10 You know, you're trying to put yourself in the head of  
11 these people who are -- and what are they thinking? They  
12 may have done as so many do, transferred the assets of the  
13 company to another company and left the liabilities there.  
14 So --

15 MR. HAMMOND: Sure. And that's really the purpose  
16 of a lot of the request for production I had was to put  
17 myself in that position.

18 THE COURT: Sure, sure.

19 MR. HAMMOND: If not, try to get in a position  
20 where they want to discuss some sort of payment or  
21 settlement of this.

22 THE COURT: Right. Well, I, I think also let's --  
23 I would like to, to the extent that your schedule will  
24 permit, hale them into court and get them in here and sit  
25 them down on the witness stand and we'll take some

1 testimony.

2 MR. HAMMOND: That would be great.

3 THE COURT: You know, it's -- I want them to  
4 understand that they're misunderstanding the way this whole  
5 process works and that they are going to pay the judgment of  
6 the court.

7 MR. HAMMOND: I appreciate that.

8 THE COURT: So I, I would like to proceed on a  
9 pretty expedited basis. And if we can issue summonses and  
10 have them served, then I think that would be helpful to all  
11 of us to get the matter --

12 MR. HAMMOND: I agree.

13 THE COURT: -- moving and on. So just let us  
14 know. And don't hesitate to pick the phone up and call us  
15 when you have a few minutes and a thought or two.

16 MR. HAMMOND: Okay. Well, I'm -- my time frame  
17 now is really -- I'm about three weeks away from being in a  
18 position where I can --

19 THE COURT: Uh-huh.

20 MR. HAMMOND: -- move forward with those steps.

21 THE COURT: Well, the -- I'm not so sure about the  
22 sanctions issues and contempt issues. If they're -- they're  
23 going to avoid those as well in my view, you know.

24 MR. HAMMOND: Sure.

25 THE COURT: I'd like to see whatever's name,



1 Mr. Semenov, in the witness stand in about a week.

2 MR. HAMMOND: Okay.

3 THE COURT: I don't think you need to wait --  
4 interrogatories in aid of execution are -- when the, when  
5 the old courthouse was in Charleston -- and perhaps you  
6 don't remember that -- old federal courthouse, the then  
7 sitting Magistrate Judge would allow me to use his courtroom  
8 in debt collection proceedings and we'd go on to 7:00, 8:00  
9 at night, 9:00 at night taking testimony and he would leave.  
10 Jerry Hogg, you know, Jerry would leave.

11 But it was also -- it was, it was the kind of  
12 proceeding that we would put them in the witness stand,  
13 swear them, put them under oath. I'd have a court reporter  
14 there and we'd take -- I'd get the Chapter 7 bankruptcy --  
15 the form you fill out for Chapter 7 bankruptcy is what I  
16 used to examine witnesses because it has every asset known  
17 to man in there, including farm animals.

18 And I actually seized a dog at the dog track once. I  
19 seized a dog, but it was a big mistake. It was a wild  
20 animal. But, but, you know, it really impresses upon them  
21 if you can have your collection proceedings in the  
22 courtroom.

23 MR. HAMMOND: Sure. I appreciate that. I haven't  
24 seized a dog, but I did try to sell Dupont once.

25 THE COURT: You tried to sell what?

1 MR. HAMMOND: DuPont.

2 THE COURT: DuPont?

3 MR. HAMMOND: We did seize a train one time.

4 THE COURT: You did seize a train?

5 MR. HAMMOND: My former boss, yes.

6 THE COURT: Is that right? You seized a train?

7 MR. HAMMOND: Yeah, stopped at the Amtrak

8 station --

9 THE COURT: Good for you. Wow.

10 MR. HAMMOND: -- at Charleston.

11 THE COURT: You had to get a writ of possession or  
12 something on that thing?

13 MR. HAMMOND: We did.

14 THE COURT: Wow. I, I tried to get a Learjet once  
15 but it belonged to a coal mine person. And it landed at the  
16 Kanawha airport and I couldn't get -- I would have chained  
17 myself to that airplane but I couldn't get Judge Hey to give  
18 me a writ -- he happened to have been busy and he, he  
19 typically would just write out a writ of possession for me  
20 and just go up and seize the plane. But I've never seized  
21 a, a -- that's a big deal. But I have to say the -- I  
22 seized a dog at the dog track.

23 MR. HAMMOND: That's quite impressive.

24 THE COURT: Uh-huh. They took the dog to the  
25 evidence locker. I had a, I had a police officer seize that

1 dog. I forget his name now. He was the one assigned in  
2 Kanawha County, you know. They used to have a police  
3 officer assigned to collection efforts and you had a big  
4 book of writs and everything.

5 And they took it to the evidence locker and the dog  
6 tore up -- those greyhound dogs are a bit wild. They're not  
7 trained. I thought they, I thought they were small dogs.  
8 They're large dogs. And, so, he had it in his patrol car,  
9 took it in there. And the guy who owned it was from Ohio.  
10 He paid up right away just to get his dog back.

11 MR. HAMMOND: Well, after we got the train, money  
12 was wired to us in about a half hour.

13 THE COURT: Is that right?

14 MR. HAMMOND: So --

15 THE COURT: I can --

16 MR. HAMMOND: -- it was totally effective.

17 THE COURT: I can imagine because they're on a  
18 schedule, these schedules, you know. But it's not so much  
19 money in this case. How much is it?

20 MR. HAMMOND: About 160,000.

21 THE COURT: Yeah. That's not a whole lot of money  
22 really. And they -- and I, I saw some of their, some of  
23 their financials. Until at least this year, they were  
24 mining some coal.

25 MR. HAMMOND: Well, there's still a little bit.

1           THE COURT: Three or 400,000 a year -- tons a  
2 year.

3           MR. HAMMOND: They're due to issue another  
4 quarterly report in October.

5           THE COURT: Is that right?

6           MR. HAMMOND: Yeah.

7           THE COURT: And you can get ahold of that?

8           MR. HAMMOND: Yeah. It's public information.

9           THE COURT: Uh-huh. Through the Secretary of  
10 State?

11          MR. HAMMOND: Through SEC filings.

12          THE COURT: Oh, okay, okay, good, good. Well,  
13 let's chase her around a little bit and see, --

14          MR. HAMMOND: Okay.

15          THE COURT: -- see if we can't get them in court  
16 real soon.

17          MR. HAMMOND: Okay.

18          THE COURT: Often judgment debtors are under --  
19 they misunderstand or they're head-in-the-sand types, you  
20 know, or they're just plain not going to pay unless you make  
21 them.

22          MR. HAMMOND: Right.

23          THE COURT: Uh-huh. All right. Well, I'm glad,  
24 glad to meet you, Jason, and I'll look forward to working  
25 with you. Excellent firm you're with.

1           MR. HAMMOND: That's good. Thank you. I  
2 appreciate that.

3           (Proceedings concluded)

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10           I, Lisa A. Cook, Official Reporter of the United  
11 States District Court for the Southern District of West  
12 Virginia, do hereby certify that the foregoing is a true and  
13 correct transcript, to the best of my ability, from the  
14 record of proceedings in the above-entitled matter.

15  
16  
17           s\Lisa A. Cook

18                   Reporter

17                   September 29, 2016

18                                   Date